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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,085	02/22/2005	Hitoshi Furuta	054-05	5012
27569	7590	08/08/2006	EXAMINER	
PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			PEARSE, ADEPEJU OMOLOLA	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/525,085

Applicant(s)

FURUTA ET AL.

Examiner

Adepeju Pearse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

Claim 1 and 3 are rejected under 35 U.S.C. 102(a) as being anticipated by Hironori et al (JP 2001 275584). The reference and rejection are incorporated as cited in the previous office action.

### ***Response to Arguments***

1. Applicant's arguments filed 5/11/2006 have been fully considered but they are not persuasive. Applicant argues that the thickener described in the reference is a functional component, which is used by dissolving it in water so as to affect the viscosity or gelation of a food but not a food per se, which can directly be eaten. It is inherent that the starch is edible since it is applied into a food. It is well known in the art that starch is present in foods to help with gelation/thickness as taught by Hironori et al and besides applicant's invention is directed to a food product comprising a starch as taught by Hironori et al.

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 4 is rejected under 35 U.S.C. 103(a) as being obvious over Japanese Patent Publication JP 2001 275584 to Hironori et al. in view of Japanese Patent Publication 09140344 to Kiyoshi. The rejection and reference are incorporated as cited in the prior office action.

***Response to Arguments***

3. Applicant's arguments filed 5/11/2006 have been fully considered but they are not persuasive. The rejection is maintained as cited in the previous office action and for reasons stated above.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaeti et al (US Pat. No. 3,987,207) in view of Nishinomiya et al (US Pat. No. 5,980,957). With regard to claims 1 and 3, Spaeti et al disclose an instant potage soup comprising a granular mix including thickeners, spices, etc (col 1 lines 54-65) and is reconstitutable by the addition of boiling or hot water (col 1 lines 48-50). However, Spaeti et al failed to disclose the presence of a water-soluble polysaccharide. Nishinomiya et al teach a powdery seasoning for instant foods including instant potage soup comprising brewed soybean paste, dried and pulverized soy, etc (col 3 lines 34-35). It would not have involved an inventive step to modify Spaeti et al with the teachings of Nishinomiya et al by incorporating a soybean component into the instant food mix for the purpose of seasoning.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spaeti et al in view of Kiyoshi et al (JP Pub. No. 09140344). Spaeti et al failed to disclose a container for the instant food. However, Kiyoshi et al teach an instant food packed in a container wherein the container serves as the reconstituting vessel and serving bowl (abstract and figure). It would have been obvious to one of ordinary skill in the art to modify Spaeti et al with Kiyoshi et al by utilizing a container that can serve as the cooking and serving bowl in order to provide a convenient and

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easy to prepare meal for the consumer. In addition by applicants own prior art admission that, it is well known in the art to provide instant meals in packaged containers/cups that serve as the cooking and serving bowl, for example instant noodles (see spec, page 1 lines 10-18).

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adepeju Pearse whose telephone number is 571-272-8560. The examiner can normally be reached on Monday through Friday, 8.00am - 4.30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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